

## **PROPERTY BOND INSTRUCTIONS**

An operator may use real estate (property and buildings) having legal access for a Property Bond. The property may be a surveyed tract or a portion of a tract defined by legal description. Due to various costs that may be incurred by the Department in the event of property bond forfeiture, the appraised value of the real estate and the total bond commitment must be at least 35 percent greater than the required bond amount. Contact the program to verify the total bond commitment before beginning the following process to complete a property bond:

1. Submit to the Department:

- a. A completed Property Bond form (complete the first 1.5 pages).
- b. A limited market data appraisal communicated by a restricted report and done by a state licensed or certified appraiser where the Department of Environmental Quality is the client and the appraiser is selected and paid by the operator, or another type of current and reliable documentation of the property's value.
- c. A plat, certificate of survey, or land ownership map showing the location and boundaries of the property.
- d. A Title Insurance Policy (not a Lot Book Guarantee) where the policy is made for the amount of the bond, the "State of Montana acting through the Department of Environmental Quality" is the insured party, and the title company is selected and paid by the operator. The Department will accept the bond if the property has a clear title and no encumbrances, or, if encumbrances are shown, a subordination agreement can be obtained from each lien holder putting the Department in first position.

2. Following a field check of the property by the Department, and signature of the bond form by the Bureau Chief, the form will be returned to the operator who must then:

- a. Take the original and a copy of the signed bond form to the Clerk and Recorder in the county where the property is located, have the bond recorded, and obtain a "conformed copy" (documentation of registration and recordation with the Clerk and Recorder).
- b. Send the conformed copy to the Department.

Upon the Department's receipt of the conformed copy, the bond is considered approved.

## OPENCUT MINING PROPERTY BOND

WHEREAS, \_\_\_\_\_, the undersigned:

1. On \_\_\_\_\_, \_\_\_\_\_, submitted an application for a Reclamation Permit for reclamation of land affected by opencut mining operations pursuant to the Opencut Mining Act (Title 82, Chapter 4, Part 4, MCA, hereinafter called "the Act") on the following property:  
\_\_\_\_\_ acres located in \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W, \_\_\_\_\_ County, Montana;
2. Are/Is required to post a bond pursuant to 82-4-433 MCA and ARM 17.24.203 in the amount of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_). This total sum includes \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) to cover the cost of reclaiming the land affected by mining operations pursuant to the Act and \_\_\_\_\_ (\$ \_\_\_\_\_) to reimburse the Department of Environmental Quality for costs incurred in the event of bond forfeiture; and
3. Hereby certifies that he/she/it is in possession of and owns legal title to real property situated in this state with unencumbered equity not exempt with the value of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) which property is described as follows:  
\_\_\_\_\_ acres located in \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W, \_\_\_\_\_ County, Montana;

NOW, THEREFORE, in consideration for the issuance of a reclamation permit for the above-described application, the undersigned promise(s) to comply fully with all requirements of said reclamation permit, the Act, and rules adopted thereunder, and hereby assign(s), transfer(s), and set(s) over to the State of Montana, Department of Environmental Quality the real property described in subparagraph 3 above as security for such performance.

This obligation is executed pursuant to 82-4-433, MCA, and ARM 17.24.203 and is intended to comply with the requirements thereof. If and when the undersigned comply(ies) with all the requirements of the reclamation permit, the Act, and rules adopted thereunder, and their obligation pursuant to 82-4-433(5), MCA, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The State of Montana, Department of Environmental Quality may at any time after the undersigned fail(s) to fully comply with all requirements of the reclamation permit, the Act, and rules adopted thereunder, and after giving written notice to the undersigned, sell the same at public or private sale with or without the consent of the undersigned, and shall return to the undersigned any money obtained at that sale in excess of the amount of bond due and owing.

The amount stated in paragraph 2 that covers the cost of reclaiming the land affected by the mining operations is a penal

sum and shall be forfeited in its entirety regardless of the actual damage caused by the failure of the undersigned to fully comply with all requirements of the reclamation permit, the Act, and rules adopted thereunder. In the event forfeiture proceedings are necessary, the legal expenses of the Department of Environmental Quality will be deducted from the amount of the bond stated in paragraph 2 to reimburse the costs of bond forfeiture. These costs include, but are not limited to, attorneys' fees and the cost of legal services provided by employees of the Department of Environmental Quality at their regular salary rates.

Signed and dated at \_\_\_\_\_, Montana, this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Operator

\_\_\_\_\_  
Signature

STATE OF MONTANA )  
County of \_\_\_\_\_ ) : ss.

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

The State of Montana, Department of Environmental Quality accepts the foregoing assignment.

Approved by Department of Environmental Quality  
Legal Counsel:

\_\_\_\_\_  
Chief, Industrial & Energy Minerals Bureau  
Permitting & Compliance Division

\_\_\_\_\_  
Date

STATE OF MONTANA )  
County of \_\_\_\_\_ ) : ss.

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_  
o'clock \_\_\_\_\_ M. and recorded in \_\_\_\_\_ of the Records of the  
County of \_\_\_\_\_, State of Montana.

\_\_\_\_\_  
CLERK AND RECORDER

By: \_\_\_\_\_